

## IN THE IOWA DISTRICT COURT FOR POLK COUNTY

STATE OF IOWA ex rel.  
THOMAS J. MILLER,  
ATTORNEY GENERAL OF IOWA  
99AG25112,

Applicant,

v.

ACTION POINT, LLC,  
an Arizona limited liability corporation; and

ROBERT FOSTER,

Defendants.

Equity No. EQ CE 72150

CONSENT JUDGMENT

CLERK DISTRICT COURT

12 NOV -2 AM 8:33

FILED  
POLK COUNTY, IA

On this 2<sup>nd</sup> day of November 2012, the Court, having been presented by Assistant Attorney General Steve St. Clair with this Consent Judgment, finds and orders as follows:

1. Plaintiff State of Iowa ex rel. Thomas J. Miller, Iowa Attorney General, has filed a Petition in Equity against the above-captioned defendants pursuant to Iowa Code § 714.16 (2011), the Iowa Consumer Fraud Act, and this Consent Judgment, which has been approved by both of the above-named defendants, is intended to resolve this litigation.

2. The Court has jurisdiction of the parties and subject matter.

3. The Court finds that this Consent Judgment should be entered.

IT IS THEREFORE ORDERED pursuant to Iowa R. Civ. P. 1.1501 *et seq.* and the Iowa Consumer Fraud Act, Iowa Code § 714.16, that Defendants, and each of them, and (as applicable) their directors, officers, principals, partners, employees, agents, servants, representatives, subsidiaries, affiliates, successors, assigns, merged or acquired predecessors, parent or controlling entities, and all other persons, corporations and other entities acting in

concert or participating with one or both Defendants who have actual or constructive notice of the Court's injunction are permanently restrained and enjoined from engaging in any course of advertising, solicitation, or sale directed to Iowa consumers (or directed to non-Iowans from an Iowa location) that involves telemarketing, direct mail, or express or implied representations that sales or donations benefit the disabled or disadvantaged.

**IT IS FURTHER ORDERED** that, in addition to whatever other legal remedies may be available, a violation of this Consent Judgment constitutes a violation of the Iowa Consumer Fraud Act, Iowa Code § 714.16 (2011), and each violation by a Defendant of this Consent Judgment, if established by a preponderance of the evidence in a Consumer Fraud Act action by the Attorney General, gives rise to a presumptive civil penalty in the highest amount provided by that Act.

**IT IS FURTHER ORDERED** that, pursuant to Iowa Code § 714.16, each Defendant pay to the Attorney General the sum of \$10,000.00, to be deposited by the Attorney General in the fund created by Iowa Code § 714.16A, **PROVIDED HOWEVER** that such payment shall be suspended indefinitely, and no judgment shall be ordered in that amount against either Defendant as long as such Defendant remains in compliance with the requirements of this Consent Judgment.

**IT IS FURTHER ORDERED** that the Court shall retain jurisdiction for purposes of enforcement of this Consent Judgment, and that Defendants shall pay court costs, if any.

**SO ORDERED.**

  
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Judge, Fifth Judicial District of Iowa

Approved:

Date: 10-24-12

Robert Foot For Actionpoint  
Defendant Action Point, LLC

Date: 10-24-12

Robert Foot  
Defendant Robert Foster

Date: 10-25-12

Steve St. Clair  
Steve St. Clair  
Assistant Iowa Attorney General